

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION

Vincent Antonio Syndab,

PLAINTIFF

v.

Carolyn W. Colvin, Acting Commissioner of  
Social Security,

DEFENDANT

Case No. 5:12-cv-2315-TLW

**Order**

This social security matter is before the Court on Plaintiff's counsel's Motion for Attorney Fees pursuant to 42 U.S.C. § 406(b)(1) and Local Civil Rule 83.VII.07, filed on August 2, 2015. (ECF No. 30.)

On August 14, 2012, Plaintiff filed this action seeking review of the Commissioner's decision denying his disability claim. (ECF No. 1.) On October 11, 2013, Magistrate Judge West issued a Report and Recommendation ("R&R"), which recommended reversing the Commissioner's decision and remanding the case for further administrative action. (ECF No. 18.) On March 7, 2014, the Court accepted the R&R over the Commissioner's objections. (ECF No. 25.) Plaintiff then moved for attorney's fees of \$4,409.89 under the Equal Access to Justice Act, which the Court granted by order dated June 17, 2014. (ECF No. 27; 29.)

On July 12, 2015, the Social Security Administration ("SSA") issued a Notice of Award to Plaintiff, indicating that Plaintiff and his family members were being paid retroactive benefits beginning as of January 2008. (ECF No. 30-1 at 3-4.) On August 2, 2015, Plaintiff filed the present motion seeking to recover \$39,307.00 in attorney's fees based on 25% of the total retroactive benefits awarded. (ECF No. 30.) Plaintiff's motion and supporting memorandum cites relevant caselaw, details the calculation of an award of fees, and incorporates a fee agreement with

Plaintiff's counsel. (ECF No. 30-1, 30-2, and 30-3.) As required by 42 U.S.C. § 406(b), the amount requested by counsel is not greater than 25% of the past-due benefits recovered by Plaintiff. The Commissioner stated no objection to the petition, but requests that Plaintiff's counsel refund Plaintiff the \$4,409.89 that Plaintiff's counsel previously received in EAJA fees. (ECF No. 32.)

The Court has reviewed the motion, counsel's fee petition, and the accompanying fee agreement and finds that the request for fees pursuant to § 406(b) is reasonable. Accordingly, **IT IS ORDERED** that Plaintiff's Motion for Attorney's Fees (ECF No. 30) pursuant to the Social Security Act, 42 U.S.C. § 406(b), is hereby **GRANTED** in the amount of \$39,307.00.

The Court notes that because Plaintiff's attorney was previously awarded attorney's fees in this action under the EAJA, the previous EAJA award of \$4,409.89 must be refunded to the Plaintiff pursuant to Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002), resulting in a net fee of \$34,897.11.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
Terry L. Wooten  
Chief United States District Judge

October 8, 2015  
Columbia, South Carolina